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## **REMARKS**

Claims 2-4 and 7-9 have been cancelled. Claims 1, 5-6, and 10-23 remain in the application, Claims 11-23 have been withdrawn and Claims 1, 5-6, and 10 are currently under examination. Applicant asserts that no new matter has been added. Reconsideration of the Application is hereby requested.

## **Claim Rejections**

### ***Rejections Under 35 U.S.C. § 101***

Claims 1-5 were rejected under 35 U.S.C. § 101, as being directed to non-statutory subject matter.

Applicant has amended Claim 1 to specify more clearly that the actions being performed are being performed by a broker platform digital computer. Thus, the process is tied directly to the broker platform digital computer. “A claimed process is surely patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus....” *In re Bilski*, 545 F.3d 943, 954 (Fed.Cir. 2008)

Because Claim 1 is now tied to a particular machine, Applicant believes that this rejection has been overcome and respectfully requests that it be withdrawn.

### ***Rejections Under 35 U.S.C. § 102***

Claims 1, 5, 6 and 10 were rejected under 35 U.S.C. § 102(e), as being anticipated by Virgin et al. (US 6,826,542).

Applicant has amended Claims 1 and 6 to more clearly distinguish them from Virgin. Specifically, Applicant has added the limitations whereby the broker platform receives invoice information from various presentation entities (*e.g.*, cable television stations, radio stations, *etc.*) and, for each commercial aired by each presentation entity for a particular advertiser, calculates

the amount to be billed to the advertiser based on the difference between when the commercial was aired and when the commercial was supposed to have aired. This amount is then consolidated into a single bill that is sent to the advertiser.

### ***Background***

Typically, local advertising space was sold directly by each individual presentation entity to an advertising agency for a specific add campaign of a specific advertiser. For example, a local car dealer would engage an agency to air an advertisement. The agency would contract with one or more local presentation entities to show the add and the presentation entities would then bill the agency for a flat amount and, while the agency would bill the advertiser for an entire ad campaign, it would not bill on a per-add basis.

This system worked well for local advertisers who had a limited market segment to which they desired to advertise: in the car dealership example, a dealer would contract with only those stations in the local advertising area.

Also, local advertisers tend not to be too concerned about the precise time that an add airs. Generally, they contract for a predetermined number of spots that fit into general time ranges (*e.g.*, daytime, evening, late night). Generally, such advertisers seek repetition so as to build name recognition.

This system does not work very well with advertisers who run national add campaigns. Such campaigns typically reach hundreds of markets nation-wide and employ thousands of presentation entities. Also, such campaigns seek specific timing for their ads to be run. For example, manufacturers of a soft drink appealing to teenagers often want their ads to run during a specific portion of a sporting event. Missing the desired specific time can reduce the effectiveness of the ad and, thereby, reduce the value of the airing of the ad to the manufacturer.

With national advertising campaigns, the advertising agencies tend to deal directly with large television and radio networks, which bill them directly for the advertisements. However, with the growth of the cable television industry, the inventor of the present invention recognized that local cable television stations and the like could offer advertising to national advertising

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campaigns if it created a system by which it could consolidate a large number of invoices from a corresponding large number of presentation entities into a single invoice for each advertiser. The inventor also recognized that it is sometimes hard for certain local presentation entities to ensure exact timing for a commercial. Therefore, the present invention automatically calculates a difference between a desired airing time and an actual airing time and then bills the advertiser based on this difference.

***Claims distinguished from Virgin***

Virgin teaches a generalized electronic billing system. It does not disclose billing as it relates to the advertising industry and, therefore, it does not disclose the following limitations, as recited in the amended claims: (1) calculating the difference between the time an advertisement was contracted to air and the time that the advertisement actually aired; and (2) charging for the advertisement based on the difference.

Because Virgin does not disclose these limitations (or otherwise teach or suggest them) it is believed that this rejection has been overcome and Applicant respectfully requests that all remaining claims be allowed.

***Rejections Under 35 U.S.C. § 103***

Claims 2-4 and 7-9 were rejected under 35 U.S.C. § 103(a), as being unpatentable over Virgin et al. (US 6,826,542).

Applicant has cancelled these claims, thereby rendering this rejection moot.

**Extension of Time Petition**

A two month Extension of Time is hereby requested. Payment for the Extension will be effected at the time of electronic filing.

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### **CONCLUSION**

Applicant believes that the rejections have been overcome for the reasons recited above. Therefore, Applicant respectfully requests that all remaining claims be allowed and that a timely Notice of Allowance be issued.

No addition fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 503535.

01/05/2009

Date



Bryan W. Bockhop

Registration No. 39,613

**Customer Number: 25854**

Bockhop & Associates, LLC  
2375 Mossy Branch Dr.  
Snellville, GA 30078

Tel. 678-919-1075  
Fax 678-609-1483  
E-Mail: [bwb@bockpatent.com](mailto:bwb@bockpatent.com)